



Australian Government  
Attorney-General's Department

# SURVEILLANCE DEVICES ACT 2004

**Annual Report 2014–15**

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# CONTENTS

EXECUTIVE SUMMARY	2
CHAPTER 1—OVERVIEW OF THE SURVEILLANCE DEVICES ACT	3
Objects of the Act	3
Use of surveillance devices	3
Surveillance device warrants	5
Form of warrant	6
- Use of surveillance devices without warrant—emergency circumstances	6
- Use of surveillance devices without a warrant—investigation purposes	7
- Use of surveillance devices outside Australia	7
Use of the information obtained	7
Accountability provisions	8
Inspections and reports by the Ombudsman	8
Annual Report tabled by the Attorney-General	8
CHAPTER 2—DEVELOPMENTS IN THE REPORTING PERIOD	9
Recent legislative and policy developments	9
Judicial decisions	9
Effectiveness of surveillance	9
CHAPTER 3—INFORMATION REQUIRED UNDER THE ACT	10
The information required	10
Surveillance device warrants	11
- Applications for surveillance device warrants	11
- Applications for surveillance device warrants made for a mutual assistance investigation	13
- Remote applications for surveillance device warrants	14
- Extension applications for surveillance device warrants	14
Emergency authorisations	15
Tracking device authorisations	15
Effectiveness of surveillance devices	16
- Interpretive note	17
CHAPTER 4—FURTHER INFORMATION	18
APPENDIX A: LIST OF TABLES & FIGURES	19
APPENDIX B: ABBREVIATIONS	20

# EXECUTIVE SUMMARY

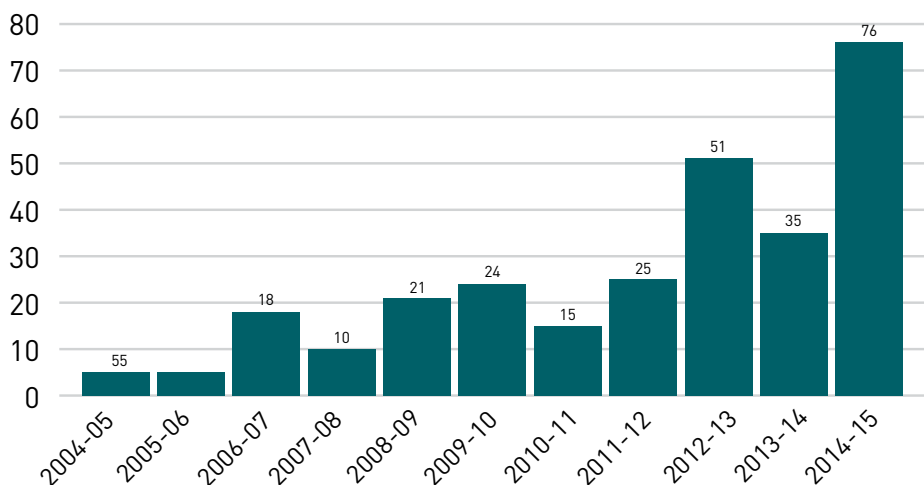
The *Surveillance Devices Act 2004* (the SD Act) commenced operation on 15 December 2004, strengthening the then legislative regime which consisted of a combination of state and Commonwealth legislation and common law principles relating to the use of surveillance devices.

The SD Act is broadly based on model surveillance device laws developed in 2003 by the Standing Committee of Attorneys-General and Australasian Police Ministers Council Joint Working Group on National Investigation Powers. The Working Group proposed in its report the adoption of model laws both at the state and federal levels to regulate the use of surveillance devices by law enforcement agencies.

The SD Act provides a framework that serves Federal, State and Territory law enforcement agencies by strengthening cross-border investigations and information sharing in relation to the investigation of serious offences.

Figure 1 illustrates the increasing role information obtained under the SD Act has played, when adduced in evidence, in securing convictions. In the 2014-15 reporting period, information obtained under the SD Act was relevant to 76 convictions, an increase of over 50% over the previous highest number of convictions using surveillance device material.

**Figure 1: Number of convictions**



As part of the SD Act's oversight mechanisms, this report is tabled in Parliament annually to show the extent to which law enforcement agencies use the powers available under the Act. This is the eleventh *Surveillance Devices Act 2004* Annual Report and relates to the period 1 July 2014 to 30 June 2015.

# CHAPTER ONE

## OVERVIEW OF THE SURVEILLANCE DEVICES ACT

### Objects of the Act

The SD Act is intended to facilitate cross-border investigations and information sharing between Australian agencies.

The SD Act complements, rather than replaces, existing State and Territory laws. Accordingly, the SD Act does not prohibit the use of surveillance devices; rather, it authorises the use of surveillance devices where that use would otherwise be unlawful.

The SD Act achieves these outcomes by:

- (a) providing a single legislative regime for Commonwealth agencies to use surveillance powers, and
- (b) authorising state and territory law enforcement agencies to use surveillance devices under the Commonwealth regime in defined circumstances.

### Use of surveillance devices

Surveillance devices are defined in the SD Act as:

- (a) data surveillance devices, including any device or program used to record or monitor the input into or out of a computer
- (b) listening devices, including any device capable of being used to hear, record, monitor or listen to conversations or words spoken but does not include a hearing aid or similar device
- (c) optical surveillance devices, including any device used to record visually or observe activity but does not include spectacles, contact lenses or similar devices, and
- (d) tracking devices, meaning any electronic device capable of determining or monitoring the location of a person or an object or the status of an object.

Surveillance devices may be used by officers of the following law enforcement agencies:

- all State and Territory police forces
- Australian Commission for Law Enforcement Integrity (ACLEI)
- Australian Crime Commission (ACC)
- Australian Federal Police (AFP)
- Corruption and Crime Commission of Western Australia (CCC (WA))
- Crime and Corruption Commission of Queensland (CCC (QLD))
- Independent Commission Against Corruption of New South Wales (ICAC)

- New South Wales Crime Commission (NSW CC), and
- Police Integrity Commission of New South Wales (PIC).

A law enforcement agency may apply for a surveillance device warrant to assist in the investigation of a 'relevant offence' which is defined as including:

- a Commonwealth offence which carries a maximum penalty of at least three years imprisonment
- State offences with a federal aspect which carry a maximum penalty of at least three years imprisonment
- defined additional offences in the:
  - *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*
  - *Financial Transaction Reports Act 1988*
  - *Fisheries Management Act 1991*, and
  - *Torres Strait Fisheries Act 1984*.
- offences against laws of the Commonwealth, States and Territories arising from integrity operations

The additional offences do not carry minimum imprisonment penalties of at least three years imprisonment but either:

- a) carry pecuniary penalties that are the equivalent of imprisonment terms of at least three years, or
- b) are included in the SD Act because they are often indicative of more serious criminal conduct.

The use of surveillance devices is also available to assist in the safe recovery of a child who is the subject of a recovery order or an order for a warrant of apprehension or detention of a child. An example is where a child has been unlawfully removed from Australia to another country.

## Surveillance device warrants

The SD Act provides that an eligible Judge or a nominated Administrative Appeals Tribunal (AAT) member may issue a surveillance device warrant.

An ‘eligible Judge’ is a Judge who has consented in writing and been declared by the Attorney-General to be an eligible Judge. During the reporting period eligible Judges included members of:

- the Family Court of Australia
- the Federal Court, and
- the Federal Circuit Court.

A ‘nominated AAT member’ refers to a Deputy President, senior member or member of the AAT who has been nominated by the Attorney-General to issue surveillance device warrants.

In the case of part-time senior members and members of the AAT, the member must have been enrolled as a legal practitioner of the High Court, Federal Court or Supreme Court of a State or Territory for no less than five years to be eligible for nomination to issue surveillance device warrants.

The total number of eligible Judges and nominated AAT members available in the reporting period is presented in Table 1.

**Table 1: Availability of Federal Court Judges, Family Court Judges, Federal Circuit Court Judges and nominated AAT Members to issue warrants**

Issuer	Number Eligible		
	12–13	13–14	14–15
Nominated AAT Members	39	31	29
Family Court Judges	10	7	5
Federal Circuit Court Judges	37	35	32
Federal Court Judges	10	11	13
<b>Total</b>	<b>96</b>	<b>84</b>	<b>79</b>

## Form of warrant

Generally, an application for a warrant must be in writing and be accompanied by an affidavit setting out the grounds on which the warrant is sought. However, in urgent circumstances, applications may be made by telephone. In either case, the warrant takes effect only when completed and signed by the eligible Judge or nominated AAT member.

In urgent circumstances a law enforcement officer may make an application for a warrant before making or swearing the supporting affidavit. The law enforcement officer must supply the eligible Judge or nominated AAT member with as much information as the eligible Judge or nominated AAT member considers is reasonably practical in the circumstances. The law enforcement officer must then supply the eligible Judge or nominated AAT member with an affidavit within 72 hours of the application being made, irrespective of whether the eligible Judge or nominated AAT member issues the warrant.

A warrant takes effect when it is issued and expires on a specified date, being no more than 90 days from the date the warrant is issued, unless the warrant is revoked earlier or extended. A warrant may be extended or varied by an eligible Judge or nominated AAT member if he or she is satisfied that the grounds on which the warrant was issued still exist.

## Use of surveillance devices without warrant—emergency circumstances

Where special circumstances of urgency exist, a member of an agency at Senior Executive Service (SES) level or above may issue an emergency authorisation enabling the use of surveillance devices without a warrant.

An emergency authorisation may only be issued when urgent circumstances exist and:

- there is a serious risk to a person or property
- it is necessary to assist in the recovery of a child who is subject to a recovery order, or
- there is a risk of loss of evidence for certain serious offences such as drug offences, terrorism, espionage, sexual servitude and aggravated people smuggling.

The use of a surveillance device under such an authorisation must be retrospectively approved by an eligible Judge or AAT member within 48 hours of the authorisation being issued.



## Use of surveillance devices without a warrant – investigation purposes

Optical surveillance devices may be used without a warrant where the device can be installed and retrieved without either entering premises or interfering with the interior of a vehicle or thing without permission.

In limited circumstances, listening devices may be used without a warrant by a law enforcement officer who is a party to the conversation being recorded or is included in a class or group of persons whom the speaker of the words intends will, or should reasonably expect would, hear the conversation.

A tracking device authorisation may be issued by a senior member of the agency (at least SES level) or above where the use of that device does not involve either entering premises or interfering with the interior of a vehicle or thing without permission. A tracking device authorisation may only be issued in relation to the same purposes for which surveillance device warrants may be issued.

## Use of surveillance devices outside Australia

The SD Act allows for the use of surveillance devices in the investigation of Commonwealth offences occurring outside Australia. With the exception of the investigation of certain offences in Australia's contiguous and fishing zones, one of the following must apply before the surveillance device can be used:

- the consent of an appropriate official of the foreign country must be obtained, and
- if surveillance is occurring on a vessel or aircraft, consent must be obtained from the country of registration of the vessel or aircraft.

## Use of the information obtained

The SD Act establishes a strict regime to regulate the use, communication and disclosure of information obtained from the use of surveillance devices. As a general rule, all information obtained under a surveillance device and all information relating to the existence of a surveillance device warrant is 'protected information' and may only be used for the express purposes set out in the SD Act.

These purposes include:

- the investigation and prosecution of relevant offences, including but not limited to the offence for which the surveillance device was originally used
- information sharing with national security agencies
- disciplinary proceedings for public officers, and
- the provision of mutual assistance to other countries.

These strict purposes strike the appropriate balance between protecting the privacy of the information obtained and enabling Australia's law enforcement community to share relevant information.

## **Accountability provisions**

The SD Act establishes a rigorous reporting and inspection regime which allows the Ombudsman, the Attorney-General and the Parliament to scrutinise the exercise of powers under the SD Act.

All law enforcement agencies using the SD Act are required to maintain records relating to the use of surveillance devices and the use of information obtained through the use of surveillance devices. All law enforcement agencies must maintain a register of warrants recording details of all warrants and must provide a report on each warrant or authorisation issued under the SD Act to the Attorney-General.

## **Inspections and reports by the Ombudsman**

The Commonwealth Ombudsman is required to inspect the records of law enforcement agencies to ensure compliance with the SD Act.

The Ombudsman must make a written report to the Attorney-General at six monthly intervals on the results of each inspection. The Attorney-General must table this report in Parliament.

## **Annual Report tabled by the Attorney-General**

The SD Act requires that each year the Attorney-General table in Parliament a report setting out the information required by section 50 of the SD Act. Chapter 3 of this report contains the information required to be presented under the SD Act.

# CHAPTER TWO

## DEVELOPMENTS IN THE REPORTING PERIOD

This chapter sets out the principal legislative developments and judicial decisions relating to the SD Act which occurred during the reporting period.

### **Recent legislative and policy developments**

No significant policy developments relevant to the SD Act or amendments to the SD Act occurred during the reporting period.

### **Judicial decisions**

No significant judicial decisions relevant to the SD Act were handed down during the reporting period.

### **Effectiveness of surveillance**

While State and Territory law enforcement agencies generally rely on their own legislative regimes for the use of surveillance devices, agencies can make use of the SD Act when investigating a Commonwealth matter or during a joint operation.

During the reporting period the use of warrants under the SD Act continued to provide an important investigative tool to law enforcement agencies, with around 2 per cent more warrants being issued in 2014–15 than in 2013–14. This represents a modest increase when compared with previous reporting years. In 2013–14 around 16 per cent more warrants were issued than in 2012–13.

# CHAPTER THREE

## INFORMATION REQUIRED UNDER THE ACT

### The information required

The annual reporting requirements are set out in section 50 of the SD Act, which provides that this report must include information on:

- (a) number of applications for warrants made and the number of warrants issued (paragraph 50(1)(a)) in respect of each different kind of surveillance device (subsection 50(2))
- (aa) the number of mutual assistance applications made by or on behalf of, and the number of warrants issued as a result of such applications to, law enforcement officers of the agency during that year (paragraph 50(1)(aa))
- (b) the number of applications for emergency authorisations made and the number of emergency authorisations given (paragraph 50(1)(b)) in respect of each different kind of surveillance device (subsection 50(2))
- (c) the number of applications for tracking device authorisations made and the number of tracking device authorisations given (paragraph 50(1)(c))
- (d) the number of remote applications for warrants made (paragraph 50(1)(d))
- (e) the number of warrants, emergency authorisations or tracking authorisations refused (paragraph 50(1)(e)) and reasons for refusal
- (ea) the number of mutual assistance applications made by or on behalf of law enforcement officers of the agency that were refused during that year, and the reasons for refusal (paragraph 50(1)(ea))
- (f) the number of applications for extensions of warrants made, the number of extensions granted and the number of extensions refused, as well as the reasons why they were granted or refused (paragraph 50(1)(f))
- (g) the number of arrests made wholly or partly on the basis of information obtained under a warrant, emergency authorisation or tracking device authorisation (paragraph 50(1)(g))
- (h) the number of instances in which the location and safe recovery of a child, to whom a recovery order related, was assisted wholly or partly on the basis of information obtained under a warrant, emergency authorisation or tracking device authorisation (paragraph 50(1)(h))

- (i) the number of prosecutions commenced in which information obtained under a warrant, emergency authorisation or tracking device authorisation was given in evidence and the number of prosecutions which resulted in convictions (paragraph 50(1)(i))
- (ia) for each offence (the *foreign offence*) against a law of a foreign country in respect of which a warrant was issued as a result of a mutual assistance application made by or on behalf of law enforcement officers of the agency during the year—the offence (if any), under a law of the Commonwealth, or of a State or a Territory, that is of the same nature as, or a substantially similar nature to, the foreign offence, and
- (j) any other information relating to the use of surveillance devices and the administration of the SD Act that the Minister considers appropriate (paragraph 50(1)(j)).

The SD Act requires the chief officer of each law enforcement agency to submit an annual report to the Attorney-General as soon as possible after the end of each financial year and in any event within three months after the end of the financial year. These reports are compiled into this single report.

## Surveillance device warrants

### Applications for surveillance device warrants

Paragraph 50(1)(a) of the SD Act provides that this report must set out the number of applications for warrants made and the number of warrants issued during the reporting period. Subsection 50(2) further requires that the report set out a breakdown of these numbers in respect of each different kind of surveillance device.

This information is presented in Table 2. In 2014-15, law enforcement agencies applied for 876 warrants and issuing authorities issued 875 warrants. The single request was refused due to the absence of sufficient information to support the issue of the warrant.

Table 2: Number of warrants issued

Agency	Composite Multiple					Optical					Listening					Data					Tracking					Retrieval					Total				
	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15	12-13	13-14	14-15		
ACC	Made	164	210	259	-	-	-	-	-	-	-	-	-	-	-	2	-	2	-	-	2	2	1	3	166	212	266	-	-	-	-	1	-		
	Refused	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
	Issued	164	209	259	-	-	-	-	-	-	-	-	-	-	-	2	-	2	-	2	2	1	3	166	211	266	-	-	-	-	-	-	-		
ACLEI	Made	4	14	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6	14	2	-	-	-	-	-	-		
	Refused	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
	Issued	4	14	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
AFP	Made	520	592	569	2	3	-	12	1	3	2	2	-	3	6	5	6	19	21	21	26	561	623	607	-	-	-	-	-	-	-	-	-	-	
	Refused	4	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	1	1	-	-	-	-	-	-	-	-	
	Issued	516	591	568	2	3	-	12	1	3	2	2	-	3	6	5	6	19	21	21	26	557	622	606	-	-	-	-	-	-	-	-	-	-	
CCC (QLD)	Made	2	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	7	-	-	-	-	-	-	-	-	-	
	Refused	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Issued	2	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	7	-	-	-	-	-	-	-	-	-	
WA Police	Made	-	5	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5	1	-	-	-	-	-	-	-	-	-	
	Refused	-	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	-	-	
	Issued	-	2	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	1	-	-	-	-	-	-	-	-	-	
SA Police	Made	-	-	-	-	-	-	1	-	-	3	-	-	-	-	-	-	-	-	-	-	-	4	-	-	-	-	-	-	-	-	-	-	-	-
	Refused	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Issued	-	-	-	-	-	-	1	-	-	3	-	-	-	-	-	-	-	-	-	-	-	4	-	-	-	-	-	-	-	-	-	-	-	-
VIC Police	Made	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-
	Refused	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Issued	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	
TOTAL	Made	692	828	831	2	3	-	13	1	3	5	-	5	6	5	8	23	22	29	741	861	876	-	-	-	-	-	-	-	-	-	-	-	-	-
	Refused	4	5	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	5	1	-	-	-	-	-	-	-	-	
	Issued	688	823	830	2	3	-	13	1	3	5	-	5	6	5	8	23	22	29	737	856	875	-	-	-	-	-	-	-	-	-	-	-	-	-

## Applications for surveillance device warrants made for a mutual assistance investigation

Section 14(3A) of the SD Act provides that a law enforcement officer (or another person on the officer's behalf) may apply for a warrant when they are acting under the authority of a *mutual assistance authorisation*. The Minister may issue *mutual assistance authorisations* under section 15(CA) of the *Mutual Assistance in Criminal Matters Act 1987*.

Section 15(CA) of the *Mutual Assistance in Criminal Matters Act 1987* provides that the Minister can issue a *mutual assistance authorisation* if they are satisfied of the following:

- a foreign country has requested that the Minister arrange for the use of a surveillance device
- there is an investigation underway in the requesting foreign country into a criminal matter involving an offence against the law of that foreign country that is punishable by a maximum penalty of imprisonment for 3 years or more, imprisonment for life or the death penalty, and
- the requesting foreign country has given undertakings regarding:
  - the information obtained via the use of surveillance devices only being used for the purposes for which it is communicated to the foreign country
  - the destruction of the information obtained by the surveillance device, and
  - any other matter the Minister considers appropriate.

Paragraph 50(1)(aa) of the SD Act provides that this report must set out the number of applications for warrants made and the number of warrants issued pursuant to a mutual assistance application. Paragraph 50(1)(ea) further provides that the report must include the number of mutual assistance applications that were refused during the reporting period, and provide the reasons why the applications were refused.

Where a surveillance device warrant was issued as a result of mutual assistance application, paragraph 50(1)(ia) of the SD Act requires that the this report list the offence (if any) under a law of the Commonwealth, States or Territories that is of the same or substantially similar nature as the foreign offence being investigated under that surveillance device warrant.

In 2014–15, no law enforcement agencies applied for a surveillance device warrant as a result of a mutual assistance application.

## Remote applications for surveillance device warrants

Section 15 of the SD Act permits an application for a warrant to be made by telephone, fax, e-mail or other means of communication if the law enforcement officer believes that it is impracticable to make the application in person. Paragraph 50(1)(d) of the SD Act provides that this report must set out the number of remote applications made during the reporting period.

In 2014–15, the AFP applied remotely for and was issued 2 surveillance device warrants.

## Extension applications for surveillance device warrants

Section 19 of the SD Act provides that the law enforcement officer to whom a warrant was issued (or another person on the officer's behalf) may apply for an extension of the warrant for a period not exceeding 90 days after the warrant's original expiry date. This application may be made at any time before the warrant expires.

Paragraph 50(1)(f) of the SD Act provides that the annual report must set out the number of applications for the extension of a warrant that were made, the number of extensions granted and the number of extensions refused during the reporting period. This information is presented in Table 3.

**Table 3: Number of applications for extension of a warrant—s50(1)(f)**

Agency		Applications		
		12–13	13–14	14–15
ACC	Made	33	31	27
	Refused	-	-	-
	Issued	33	31	27
ACLEI	Made	6	13	1
	Refused	-	-	-
	Issued	6	13	1
AFP	Made	77	127	124
	Refused	-	-	-
	Issued	77	127	124
CCC (QLD)	Made	-	4	-
	Refused	-	-	-
	Issued	-	4	-
<b>Total</b>	<b>Made</b>	<b>116</b>	<b>175</b>	<b>152</b>
	<b>Refused</b>	<b>-</b>	<b>-</b>	<b>-</b>
	<b>Issued</b>	<b>116</b>	<b>175</b>	<b>152</b>



Agencies reported that extensions were granted to enable investigators to obtain further evidence in relation to relevant offences and to provide further opportunities for investigators to deploy devices where little or no opportunity had arisen previously to do so without compromising the investigation.

## Emergency authorisations

Law enforcement officers may apply to an appropriate authorising officer for an emergency authorisation to use a surveillance device in cases of serious risk to person or property (section 28), urgent circumstances relating to a child recovery order (section 29) or where there is a risk of loss of evidence (section 30). Within 48 hours of giving an emergency authorisation, the authorising officer (or another person on the officer’s behalf) must apply for approval of the giving of the emergency authorisation from an eligible Judge or nominated AAT member.

Paragraph 50(1)(b) provides that this report must set out the number of applications for emergency authorisations made and the number of emergency authorisations given. Subsection 50(2) further requires that the report set out a breakdown of these numbers in respect of each different kind of surveillance device.

During the reporting period the AFP made 11 emergency authorisations due to unique operational circumstances. The required information is presented in Table 4.

**Table 4: Number of emergency authorisations—s50(1)(b); s50(1)(e)**

Agency		Authorisations		
		12–13	13–14	14–15
AFP	Made	-	-	11
	Refused	-	-	-
	Issued	-	-	11
Total	<b>Made</b>	<b>-</b>	<b>-</b>	<b>11</b>
	<b>Refused</b>	<b>-</b>	<b>-</b>	<b>-</b>
	<b>Issued</b>	<b>-</b>	<b>-</b>	<b>11</b>

## Tracking device authorisations

In limited circumstances, the SD Act permits a law enforcement officer to use a tracking device without a warrant in the investigation of a relevant offence or to assist in the location and safe recovery of a child to whom a recovery order relates where the officer has the written permission of an appropriate authorising officer.

An authorisation made under this provision is subject to subsection 39(8) which states that a tracking device cannot be used, installed or retrieved if it involves entry onto premises or an interference with the interior of a vehicle without permission. The permission may come from the owner, occupier or under a surveillance device warrant. This reflects the less intrusive nature of tracking devices compared with other types of surveillance devices. However, where such use requires a greater level of intrusion (such as entry onto premises without permission), a surveillance device warrant is required.

Paragraph 50(1)(c) provides that this report must set out the number of applications for tracking device authorisations made and the number of tracking device authorisations given. This includes the number of tracking device retrievals, which may be authorised without a warrant in accordance with subsection 39(6) of the SD Act.

The required information is presented in Table 5.

**Table 5: Number of applications for tracking device—s50(1)(c); s50(1)(e)**

Agency		Tracking Device Authorisations			Tracking Device Retrievals		
		12–13	13–14	14–15	12–13	13–14	14–15
ACC	Made	10	12	21	-	-	-
	Refused	-	-	-	-	-	-
	Issued	10	12	21	-	-	-
AFP	Made	56	58	56	1	1	-
	Refused	-	-	-	-	-	-
	Issued	56	58	56	1	1	-
Total	<b>Made</b>	<b>66</b>	<b>70</b>	<b>77</b>	<b>1</b>	<b>1</b>	<b>-</b>
	<b>Refused</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
	<b>Issued</b>	<b>66</b>	<b>70</b>	<b>77</b>	<b>1</b>	<b>1</b>	<b>-</b>

### Effectiveness of surveillance devices

Section 50 of the SD Act provides that this report must set out the number of arrests, prosecutions and convictions, together with the number of locations and safe recoveries of children, on the basis of information obtained using surveillance devices. Collectively, this information provides an indication of the effectiveness of the use of surveillance devices as a law enforcement investigative tool.

Paragraph 50(1)(g) provides that this report must set out the number of arrests made wholly or partly on the basis of information obtained under a warrant, emergency authorisation or tracking device authorisation. Paragraph 50(1)(i) requires that this report set out the number of prosecutions commenced in which information obtained under a warrant, emergency authorisation or tracking device authorisation was given in evidence and the number of convictions.

Paragraph 50(1)(h) provides that this report must set out the number of instances in which the location and safe recovery of a child, to whom a recovery order related, was assisted wholly or partly on the basis of information obtained under a warrant, emergency authorisation or tracking device authorisation.

This information is presented in Table 6.

**Table 6: Number of arrests, prosecutions and convictions—s50(1)(g); s50(1)(i)**

Agency	Arrests		Safe Recovery		Prosecutions		Convictions	
	13-14	14-15	13-14	14-15	13-14	14-15	13-14	14-15
<b>ACC</b>	49	38	-	-	12	1	-	1
<b>AFP</b>	154	123	-	-	128	135	35	71
<b>CCC (Qld)</b>	1	3	-	-	-	-	-	-
<b>VIC POLICE</b>	-	-	-	-	-	4	-	4
<b>TOTAL</b>	<b>204</b>	<b>164</b>	<b>-</b>	<b>-</b>	<b>140</b>	<b>140</b>	<b>35</b>	<b>76</b>

### Interpretive note

The information presented in Table 6 should be interpreted with caution, particularly in presuming a relationship between the number of arrests, prosecutions (which include committal proceedings) and convictions in a reporting period. An arrest recorded in one reporting period may not result in a prosecution/committal (if at all) until a later reporting period and any resulting conviction may be recorded in that or an even later reporting period. Moreover, the number of arrests may not equate to the number of charges laid (some or all of which may be prosecuted at a later time) as an arrested person may be prosecuted and convicted for a number of offences.

Further, the table may understate the effectiveness of the use of surveillance devices as, in some cases, prosecutions may be initiated and convictions recorded without the need to give information obtained through the use of a surveillance device in evidence. In particular, agencies report that the use of surveillance devices effectively enables investigators to identify persons involved in, and the infrastructure of, organised criminal activities. In many cases, the weight of evidence obtained through the use of a surveillance device results in defendants entering guilty pleas, thereby removing the need for the information to be introduced into evidence.



# CHAPTER FOUR

## FURTHER INFORMATION

Further information about the *Surveillance Devices Act 2004* can be obtained by contacting the Attorney-General's Department:

Electronic Surveillance Policy Branch  
Attorney-General's Department  
3-5 National Circuit  
BARTON ACT 2600

Telephone: (02) 6141 2900

Previous *Surveillance Devices Act 2004* Annual Reports can be accessed online at: [www.ag.gov.au](http://www.ag.gov.au)

# APPENDIX A

## LIST OF TABLES & FIGURES

### TABLES

TABLE 1:	Availability of Federal Court Judges, Family Court Judges, Federal Circuit Court Judges and Nominated AAT Members to issue warrants	5
TABLE 2:	Number of warrants issued	12
TABLE 3:	Number of applications for extension of a warrant—s 50(1)(f)	14
TABLE 4:	Number of emergency authorisations—s 50(1)(b); s 50(1)(e)	15
TABLE 5:	Number of applications for tracking device—s 50(1)(c); s 50(1)(e)	16
TABLE 6:	Number of arrests, prosecutions and convictions—s50(1)(g); s50(1)(i)	17

### FIGURES

FIGURE 1:	Number of convictions	2
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# APPENDIX B

## ABBREVIATIONS

AAT	Administrative Appeals Tribunal
ACLEI	Australian Commission for Law Enforcement Integrity
ACC	Australian Crime Commission
AFP	Australian Federal Police
CCC (WA)	Corruption and Crime Commission—Western Australia
CCC (QLD)	Crime and Corruption Commission—Queensland
LEA	Law enforcement agency
NSW Police	New South Wales Police Force
SA Police	South Australian Police
SD Act	<i>Surveillance Devices Act 2004</i>
SES	Senior Executive Service
VIC Police	Victoria Police